

Senate Bill No. 1096

CHAPTER 285

An act to amend Sections 25500.1, 25500.2, and 25502.1 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 23, 2010. Filed with
Secretary of State September 24, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1096, Wiggins. Alcoholic beverages: tied-house restrictions.

The Alcoholic Beverage Control Act contains limitations on sales commonly known as "tied-house" restrictions, which generally prohibit a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler from furnishing, giving, or lending any money or other thing of value to any person engaged in operating, owning, or maintaining any off-sale licensed premises. Existing law provides that, for purposes of these provisions, the listing of the names, addresses, telephone numbers or e-mail addresses, or both, or Internet Web site addresses, of 2 or more unaffiliated on-sale retailers selling wine or brandy, or both, and operating and licensed as bona fide public eating places selling the wine or brandy produced, distributed, or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, if specified conditions are met.

This bill would revise the direct inquiry provisions to include any electronic inquiries from consumers, and would make technical, nonsubstantive changes to these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 25500.1 of the Business and Professions Code is amended to read:

25500.1. (a) Notwithstanding Section 25500, the listing of the names, addresses, telephone numbers, e-mail addresses, or Internet Web site addresses, of two or more unaffiliated on-sale retailers selling wine, brandy, or both wine and brandy and operating and licensed as bona fide public eating places pursuant to Section 23038 selling the wine, brandy, or both wine and brandy produced, distributed, imported, or both distributed and imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic inquiry or

in person does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, provided:

- (1) The listing does not also contain the retail price of the product, and
- (2) The listing is the only reference to the on-sale retailers in the direct communication, and
- (3) The listing does not refer only to one on-sale retailer or only to on-sale retail establishments controlled directly or indirectly by the same on-sale retailer, and
- (4) The listing is made by, produced by, or paid for, or any combination thereof, exclusively by the nonretail industry member making the response.

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, winegrower, distiller of wine, brandy, or both, regardless of any other licenses held directly or indirectly by such person. Except as specifically provided above, any payment for, making or production, either directly or indirectly, listing the names, addresses, telephone numbers, e-mail addresses, or Internet Web site addresses, of on-sale retailers otherwise authorized by this section by a wholesaler or by a wholesaler that also holds an importer’s license shall constitute the furnishing of a thing of value or inducement to the listed on-sale retailers in violation of this division.

SEC. 2. Section 25500.2 of the Business and Professions Code is amended to read:

25500.2. (a) Notwithstanding Section 25500, the listing of the names, addresses, telephone numbers, e-mail addresses, or Internet Web site addresses, of two or more unaffiliated on-sale retailers selling beer, wine, or distilled spirits, and operating and licensed as bona fide public eating places pursuant to Section 23038 selling the beer, wine, or distilled spirits produced, distributed, or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic inquiry, or in person does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, provided all of the following conditions are met:

- (1) The listing does not also contain the retail price of the product.
- (2) The listing is the only reference to the on-sale retailers in the direct communication.
- (3) The listing does not refer only to one on-sale retailer or only to on-sale retail establishments controlled directly or indirectly by the same on-sale retailer.

(4) The listing is made by, or produced by, or paid for, exclusively by the nonretail industry member making the response.

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, including, but not limited to, a beer manufacturer, winegrower, or distiller of alcoholic beverages or an agent of that entity, or a wholesaler, regardless of any other licenses held directly or indirectly by that person.

SEC. 3. Section 25502.1 of the Business and Professions Code is amended to read:

25502.1. (a) Notwithstanding Section 25502, the listing of the names, addresses, telephone numbers, e-mail addresses, or Internet Web site addresses, of two or more unaffiliated off-sale retailers selling the products produced, distributed or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic inquiry or in person does not constitute a thing of value or prohibited inducement to the listed off-sale retailer, provided all of the following conditions are met:

- (1) The listing does not also contain the retail price of the product.
- (2) The listing is the only reference to the off-sale retailers in the direct communication.
- (3) The listing does not refer only to one off-sale retailer or only to off-sale retail establishments controlled directly or indirectly by the same off-sale retailer.
- (4) The listing is made by, or produced by, or paid for, exclusively by the nonretail industry member making the response.

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, including, but not limited to, a beer manufacturer, winegrower, or distiller of alcoholic beverages, or an agent of those entities, or a wholesaler, regardless of any other licenses held directly or indirectly by that person.